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10 Attorneys for Plaintiff  
11 FACEBOOK, INC.

12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN JOSE DIVISION

16  
17 FACEBOOK, INC., a Delaware  
corporation,

18 Plaintiff,

19 v.  
20

21 JEREMI FISHER; PHILIP POREMBSKI;  
RYAN SHIMEALL; and JOHN DOES 1-  
22 25, individuals; and CHOKO SYSTEMS  
LLC; HARM, INC.; PP WEB SERVICES  
23 LLC; iMEDIA ONLINE SERVICES LLC,  
and JOHN DOES 26-50, corporations,  
24

25 Defendants.

Case No. C 09-05842 JF

[PROPOSED] ORDER GRANTING  
PLAINTIFF FACEBOOK, INC.'S  
MOTION FOR TEMPORARY  
RESTRANDING ORDER

26 THIS MATTER came before the Court for hearing on plaintiff Facebook, Inc.'s  
27 ("Facebook") motion for a temporary restraining order against Defendants Jeremi Fisher, Philip  
28

1 Porembski, Ryan Shimeall, Choko Systems LLC, Harm Inc., PP Web Services LLC, and iMedia  
 2 Online Services LLC (collectively “Defendants”). Now, the Court having considered Plaintiff’s  
 3 motion, the memorandum of points and authorities in support thereof, the declarations of Joseph  
 4 Cutler and a Facebook Employee, and other evidence provided in support of the motion and the  
 5 arguments of counsel, the Court hereby finds:

6       1.     The Court has jurisdiction over Defendants and the subject matter of this action.  
 7       2.     Facebook provided sufficient notice of Facebook’s intent to file a motion for a  
 8 temporary restraining order to Defendants, and thereby complied with the requirements of Federal  
 9 Rule of Civil Procedure 65.

10      3.     Based on the facts set forth in plaintiff Facebook’s Notice of Motion and Motion  
 11 for Temporary Restraining Order, the accompanying memorandum of points and authorities in  
 12 support, and the declarations of Joseph P. Cutler and a Facebook Employee, Facebook has  
 13 established a likelihood that it will succeed on the merits of its claims. Furthermore, Facebook  
 14 has established that it would have potentially suffered irreparable harm or injury if this injunction  
 15 were not issued.

16      4.     Even if Facebook had not established a likelihood of success on the merits,  
 17 Facebook has raised serious questions going to the merits and has a fair chance of success on the  
 18 merits, and the balance of hardships tips sharply in Facebook’s favor.

19      5.     The public interest weighs in favor of granting Facebook’s requested relief.

20      6.     A temporary restraining order against Defendants is necessary until a hearing on  
 21 plaintiff’s motion for a preliminary injunction.

22  
 23     Now, therefore, it is hereby ORDERED as follows:

24      1.     Defendants Jeremi Fisher, Philip Porembski, Ryan Shimeall, Choko Systems LLC,  
 25 Harm Inc., PP Web Services LLC, and iMedia Online Services LLC, and all of their officers,  
 26 agents, servants, employees and attorneys, and persons in active concert or participation with  
 27 them who receive actual notice of this order are hereby enjoined from:  
 28

- 1 a. Initiating or procuring transmission of unsolicited commercial electronic  
2 messages ("spam") on or through Facebook's computers, Facebook's  
3 website, Facebook's networks, or to Facebook users;
- 4 b. Accessing or attempting to access Facebook's website, networks, data,  
5 information, user information, profiles, computers, or computer systems;
- 6 c. Soliciting, requesting, or taking any action to induce Facebook users to  
7 provide identifying information or representing that such solicitation,  
8 request, or action is being done with Facebook's authorization or approval;
- 9 d. Retaining any copies, electronic or otherwise, of any Facebook  
10 information, including user login information or passwords, obtained  
11 through illegitimate or unlawful actions;
- 12 e. Engaging in any activity that alters, damages, deletes, destroys, disrupts,  
13 diminishes the quality of, interferes with the performance of, or impairs the  
14 functionality of Facebook's computers, computer system computer  
15 network, data, website, or services;
- 16 f. Engaging in any unlawful activities alleged in this action;
- 17 g. Entering or accessing the physical premises or facilities of Facebook or its  
18 counsel; or
- 19 h. Engaging in any activity that violates, or encourages, induces or facilitates  
20 violations of the Statement of Rights and Responsibilities, attached as  
21 Exhibit A to the Complaint in this action.

22 3. This Temporary Restraining Order shall take effect immediately and shall remain  
23 in effect pending a Hearing on Facebook's Motion for a Preliminary Injunction, which is scheduled  
24 for \_\_\_\_\_, or until further order of this Court.  
25 Facebook Inc. shall file the papers in support of its Motion for a Preliminary Injunction no later  
26 than \_\_\_\_\_. Defendants' Opposition papers, if any, shall be due no  
27 later than \_\_\_\_\_, and shall be served upon Facebook's counsel of  
28 record.

4. Defendants are ordered to appear in Courtroom \_\_\_\_ in the United States District Court for the Northern District of California, San Jose Division, located at 280 South First Street, San Jose, California 95113 on \_\_\_\_\_, 2009, at \_\_\_\_ a.m./p.m., and show cause why a preliminary injunction should not be issued as requested by Facebook.

5. Facebook is directed to file proof of bond, in the amount of \_\_\_\_\_, within five court days of this Order with the Clerk of the Court. The bond shall serve as security for all claims with respect to this Temporary Restraining Order and Temporary Impoundment Order, and any additional injunctive relief ordered by the Court in this action.

## IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2009

The Honorable Jeremy Fogel  
United States District Judge

Presented by:

PERKINS COIE LLP

By /s/

**Brian Hennessy**  
*Attorneys for Plaintiff Facebook, Inc.*